

**Before the  
FEDERAL COMMUNICATIONS COMMISSION**

In the Matter of  
Number Resource Optimization

CC Docket No. 99-200

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**COMMENTS OF  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**INTRODUCTION**

On July 16, 2004, the Federal Communications Commission (FCC) released a Public Notice (notice) inviting comments regarding SBC IP Communication's (SBCIP's) petition for a limited waiver of the federal numbering rules to allow it to obtain numbering resources directly from the North American Numbering Plan Administrator (NANPA) and/or the Pooling Administrator rather than utilizing a third party with state certification. SBCIP Communications seeks a waiver of the FCC's rules requiring state certification as a prerequisite to number assignment until the final numbering rules regarding IP-enabled services are adopted.

SBCIP's petition reflects that it intends to use these numbering resources in deploying IP-enabled services, including voice over Internet Protocol (VoIP) services, on a commercial basis to residential and business customers. SBCIP maintains that its waiver request should be approved to ensure that it can compete effectively in the rapidly growing market for IP-enabled services. SBCIP further submits that granting its waiver request will allow it utilize a more efficient means of interconnection between IP networks and the Public Switched Telephone Network (PSTN). The Public Utilities Commission of Ohio (Ohio Commission) hereby submits its comments responding to the FCC's July 16, 2004 notice.

## DISCUSSION

While the Ohio Commission does not oppose SBCIP being allowed to obtain numbers directly from the NANPA, we firmly believe that state certification should be a prerequisite to obtaining numbers from the NANPA. In Ohio, a process is already in place where upon LEC certification or wireless carrier registration, carriers must affirm that they will participate in number conservation measures including LNP and thousands-block number pooling.<sup>1</sup> Carriers are not granted statewide authority in Ohio but, rather, are certified on an exchange basis where they have obtained appropriate interconnection or traffic termination agreements with the underlying ILECs in the areas the carrier will serve. By requiring state certification, the Ohio Commission and the FCC are able to ensure that numbers are assigned to carriers only where the carrier has made a commitment to serve and the company is authorized to operate. The Ohio Commission is concerned that if IP-enabled companies offering telecommunication services are not certified, this lack of certification will frustrate the ability of the Ohio Commission to enforce number conservation requirements directly on such carriers.

SBCIP has indicated in its petition that it will fully comply with all existing FCC Commission numbering resource requirements, including the following:

- Compliance with Thousand-Block Number Pooling Requirements
- Number Resource Utilization/Forecast Reporting Requirements
- Local Number Portability Requirements

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<sup>1</sup> *In the Matter of the Commission Ordered Investigation of the Existing Local Exchange Competition Guidelines*, Case No. 99-998-TP-COI, Telephone Service Requirements Form, Page 13, April 7, 2003.

- Contribution to Numbering Administration Costs.<sup>2</sup>

The Ohio Commission supports SBCIP's intention to abide by these rules and recommends that all IP-enabled telecommunications service providers, at a minimum, be required to do the same.

In addition, we believe that SBCIP, as well as all other IP-enabled companies offering telecommunication services, should also be required to follow the FCC's current requirements with regard to the non-geographic assignment of telephone numbers. Generally, carriers obtain telephone numbers in rate centers where they plan to assign numbers to customers geographically located within those rate centers. The Ohio Commission recognizes that CMRS providers do not always geographically assign telephone numbers. The FCC, however, in a recent order regarding LNP, required wireless carriers, consistent with previous rulings for wireline carriers, to maintain the original rate center designation of the ported telephone number. Specifically, the FCC stated, "...a wireless carrier porting-in a wireline number is required to maintain the number's original rate center designation following the port. As a result, calls to the ported number will continue to be rated in the same fashion as they were prior to the port."<sup>3</sup> If IP-enabled carriers providing telecommunication service are permitted to ignore these requirements and assign numbers without regard to customer location or to allow porting outside of the original rate center boundaries, certain areas of the country with "desirable" area codes such as Los Angeles, New York City, or even Cleveland may

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2 SBC IP Communications, Inc. *Petition for Limited Waiver of Section 52.15(g)(2)(i) of the Commission's Rules Regarding Access to Numbering Resources*, filed July 7, 2004, page 10.

3 FCC CC Docket 95-116, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, November 10, 2003 at ¶28.

experience an accelerated exhaust situation. The Ohio Commission notes that Vonage is currently advertising the ability of a customer anywhere in the country to be assigned the NPA of his or her choice regardless of geographic location. Such practice is in direct violation of current FCC service provider number portability rules. Therefore, the Ohio Commission strongly encourages that the FCC immediately put an end to such practice. Further, without the requirement to maintain a ported telephone number's original rate center designation, confusion will result as to the appropriate inter-carrier rating and compensation for such calls. To date, the FCC has not proceeded with a rulemaking to decide these important issues with regard to non-geographic local number portability. Therefore, to the extent that SBCIP and all other IP-enabled providers are engaged in the assignment and porting of telephone numbers, the Ohio Commission urges the FCC to apply its current rate center designation requirements to those providers.

Recently, Vonage has begun to promote seven-digit dialing in a Massachusetts, mandatory, ten-digit dialing area code. Vonage's website, in fact, offers seven-digit dialing within any area code in the country regardless of the dialing requirements imposed by the FCC.<sup>4</sup> The FCC, on more than one occasion, has reiterated its effort to impose dialing patterns in a competitively neutral manner. Ohio has delegated authority to perform area-code relief. As part of this authority, the Ohio Commission has implemented overlay area codes for the purpose of extending the life of specific NPAs. The use of seven-digit dialing in these areas will circumvent the intentions of the Ohio Commission in areas where overlays have been required. The Ohio Commission agrees

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4      47 C.F.R. § 52.19 (2004).

with the FCC that all providers of telecommunications services, including SBCIP, Vonage and all other IP-enabled providers, should be required to follow the FCC's rulings regarding dialing patterns in order to maintain parity.

Currently, LNP and number administration/conservation is a Federal-State partnership that includes a significant role for state commissions. As a result of this partnership, the Ohio Commission devotes a significant amount of time to enforcing number administration and conservation rules. The Ohio Commission, for example, engages in number reclamation and safety valve processes pursuant to delegated authority from the FCC. Other important number conservation measures in which state commissions are actively involved include reviewing carrier number resource and utilization data (NRUF) and ensuring that carriers are using numbers efficiently and participating in thousands-block number pooling where appropriate. Again, the FCC has recognized and encouraged state participation as state commissions have the ability to review the relevant data and react in a timely manner to those carriers that may be avoiding compliance with FCC rules in this area. If a limited waiver is granted to SBCIP, the FCC should require the company to respond to and work with state commissions in all numbering matters.

Regardless of whether the FCC requires SBCIP and other IP-enabled providers of telecommunication services to obtain state certification, these companies should recognize the significant role that state commissions perform regarding numbering issues and should be required to be responsive to state commission concerns and inquiries regarding the utilization and conservation of numbers and local number portability.

On a related matter, the Ohio Commission notes that SBCIP is requesting number assignment because telephone numbers are a necessary component for access to the PSTN. The Ohio Commission further notes that without such access to the PSTN, VoIP services would have little or no value to prospective customers. Therefore, consistent with the our comments to the FCC in WC Docket No. 04-36 (In the Matter of IP Enabled Services), the Ohio Commission reiterates its position that the following four-part test be used to determine whether a service supplier should be categorized as a telecommunications service provider: (1) the provider offers fee-based voice telephony to the mass market; (2) the service transmits information of the user's choosing by originating or terminating calls over the PSTN; (3) the information is received without a net change in form or content; and (4) the NANP is used to route the calls.

If this four-part test is realized by an IP provider, the service should be classified as telecommunications subject to identical basic obligations as traditional providers including the following: universal service programs funding; access to and funding for telecommunications relay services (TRS); reciprocal compensation; access charges subject to individual jurisdictional requirements; E9-1-1; Communications Assistance Law Enforcement Act (CALEA) requirements; basic public safety requirements; and limited consumer and service quality obligations. As mentioned earlier, these basic obligations also include compliance with the FCC's number portability and telephone number conservation policies.

Since VoIP providers benefit from access to the PSTN, certain obligations inherent to the provision of local service must be must be imposed. That is to say, the

Ohio Commission believes that interconnection to the PSTN by a VoIP provider connotes a basic essential commitment to ensure that the PSTN is reasonably compensated for such access and that customers are reasonably treated, especially since these services are marketed as substitutes for traditional local exchange service.

The Ohio Commission believes that if the FCC does not ensure that these basic responsibilities are mandated on a nondiscriminatory basis on all local telecommunications service providers regardless of the medium used, deleterious consequences will result since ILECs and their competitors will be induced to migrate customers from the PSTN to VoIP to avoid these basic obligations, which in turn will result in under funding of the PSTN, a corresponding degradation of the network's infrastructure and service quality, and higher prices to customers without competitive choice.

The Ohio Commission ardently endorses the advancement of facilities-based local exchange competition including the provision VoIP services via various intermodal mediums. The FCC must ensure, however, that its policies regarding providers using the IP protocol do not result in an erosion of the current telecommunications infrastructure that will ultimately act to the detriment of both VoIP providers accessing the PSTN and traditional telecommunications service providers. Expressed another way, the FCC must move cautiously to ensure that short-term positions do not supplant well-established, long-term policies and principles. If short-term myopic regulatory policies are put in place that result in divergent regulatory environments for intermodal providers of

substitutable services, long-term harmful consequences will affect the availability of affordable, high quality, ubiquitous local telephone service.

On a final matter, the Ohio Commission observes that SBCIP's application indicates that the direct access to the NANPA and telephone numbers will allow it to avoid partnering with a CLEC affiliate, which results in a more efficient form of interconnection to the PSTN. To maintain a robust competitive marketplace for the provision of intermodal facilities-based local telecommunications services, the Ohio Commission asserts that the FCC must ensure that SBC (in addition to all incumbent local exchange companies) provide nondiscriminatory access to the PSTN to all facilities-based VoIP providers under identical terms and conditions to those afforded their affiliate VoIP providers.



**CONCLUSION**

The Ohio Commission thanks the FCC for the opportunity to comment in this proceeding.

Respectfully submitted,

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Date submitted: August 16, 2004.